

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ERIC JOHNSON

Plaintiff,

v.

MAIL MEDIA, INC., a Delaware Corporation;)
DAILY MAIL AND GENERAL TRUST, a UK)
Public limited company; DMG MEDIA)
LIMITED, a UK private limited company; and)
ASSOCIATED NEWSPAPERS LIMITED, a UK)
Private limited company,)

Defendants.)

Case No. __1:20-cv-01763__

COMPLAINT AT LAW

JURY DEMAND

COMPLAINT AND JURY DEMAND

(DEFAMATION)

Plaintiff, Eric Johnson, by and through his counsel, Strellis & Field, Chtd., brings this action against MAIL MEDIA, INC. (“MAIL MEDIA”), DAILY MAIL AND GENERAL TRUST (“DMGT”), DMG MEDIA LIMITED (“DMG MEDIA”), and ASSOCIATED NEWSPAPERS LIMITED (“ASSOCIATED NEWSPAPERS”), collectively “Defendants.”

PARTIES

1. Plaintiff is an individual residing in Fort Lauderdale, Florida and a citizen of the United States of America.
2. Defendant MAIL MEDIA, is a corporation existing under the laws of Delaware and has its headquarters located at 51 Astor Place, 9th Floor, New York, New York 10003. Mail Media’s Registered Agent is Corporation Service Company, 80 State Street, Albany, New York, 12207. On information and belief, MAIL MEDIA is owned or controlled by ASSOCIATED NEWSPAPERS, DMG MEDIA and/or DMGT. On information and belief, Mail Media manages,

operates publishes and/or co-publishes *dailymail.co.uk*, a free global news website sometimes called “Daily Mail” or “Mail Online,” and the associated social media outlets.

3. Defendant, ASSOCIATED NEWSPAPERS is a private limited company existing under the laws of the United Kingdom with a registered office address at Northcliffe house, 2 Derry Street, Kensington, London, United Kingdom, W8 5TT. On information and belief, ASSOCIATED NEWSPAPERS has an ownership or controlling interest in Mail Media, the Daily Mail, Mail Online, the Mail on Sundays and Metro. On information and belief, ASSOCIATED NEWSPAPERS manages, operates publishes and/or co-publishes *dailymail.co.uk*, a free global news website sometimes called “Daily Mail” or “Mail Online,” and the associated social media outlets. On information and belief, ASSOCIATED NEWSPAPERS is a subsidiary of DMG MEDIA and DMGT and acts as their agent. MAIL MEDIA then acts as ASSOCIATED NEWSPAPER’s agent in the United States. On information and belief, ASSOCIATED NEWSPAPER transacts substantial business in the United States by and through its agent, MAIL MEDIA.

4. DMG MEDIA is a private limited company existing under the laws of the United Kingdom with a registered office address at Northcliffe house, 2 Derry Street, Kensington, London, United Kingdom, W8 5TT. On information and belief, DMG MEDIA has an ownership or controlling interest in Mail Media, the Daily Mail, Mail Online, the Mail on Sundays and Metro and their associated social media outlets. On information and belief, DMG MEDIA manages, operates publishes and/or co-publishes *dailymail.co.uk*, a free global news website sometimes called “Daily Mail” or “Mail Online,” and the associated social media outlets On information and belief, DMG MEDIA is a subsidiary of DMGT and acts as its agent. MAIL MEDIA then acts as DMG MEDIA’s agent in the United States. On information and belief, DMG MEDIA transacts substantial business in the United States by and through its agent, MAIL MEDIA.

5. DMGT is a public limited company existing under the laws of the United Kingdom with a registered office address at Northcliffe house, 2 Derry Street, Kensington, London, United Kingdom, W8 5TT. On information and belief, DMGT operates a number of companies under the Daily Mail umbrella and is the parent company of MAIL MEDIA, ASSOCIATED NEWSPAPER, AND DMG MEDIA. On information and belief, DMGT manages, operates publishes and/or co-publishes *dailymail.co.uk*, a free global news website sometimes called

“Daily Mail” or “Mail Online,” and the associated social media outlets. On information and belief, DMGT transacts substantial business in the United States by and through its agent, MAIL MEDIA.

6. *Dailymail.co.uk* enjoys more internet visits per day than *bbc.co.uk*, *cnn.com* or *nytimes.com* and has substantial United States web traffic.

JURISDICTION AND VENUE

7. Jurisdiction of this court is invoked pursuant to Title 28 United States Code, Section 1332(a). The matter in controversy exceeds One Hundred Thousand Dollars (\$100,000.00). Further, venue is proper pursuant to Title 28 United States Code, Section 1391.

8. This Court has jurisdiction over MAIL MEDIA because the Defendant maintains a place of business and transacts business in New York and has a registered agent in the state of New York. Additionally, MAIL MEDIA has continuous and systematic contacts within the State of New York.

9. This Court has jurisdiction over defendants ASSOCIATED NEWSPAPER, DMG MEDIA and DMGT because these defendants each 1) transact substantial business within the state of New York, including having an agent with a principal place of business in New York, 2) by virtue of that agent, purposefully avail themselves to the benefits that come from conducting business in New York, 3) are physically present in New York by virtue of their agent, and 4) the transacted business in New York is related to the claims asserted in this Complaint.

FACTUAL ALLEGATIONS

10. Plaintiff, Eric Johnson, is, and at all times pertinent hereto was, a pilot for JetBlue airlines. He has never been accused, charged with, or named in a lawsuit accusing him of sexual assault.

11. Upon information and belief at least three JetBlue pilots share the name Eric or Erik Johnson.

12. On or about March 20, 2019, *dailymail.co.uk* published a story entitled “JetBlue pilots accused of drugging and raping three airline workers.” This article was published on the

dailymail.co.uk website and was disseminated via Twitter at the @DM_breakingnews Twitter handle. See Exhibit 1.

13. Directly under the headline was the lead line, “Two women, working for JetBlue airlines, claim Flight Officers Eric Johnson and [an individual with the initials “D.W.”] drugged their beers and sexually assaulted them.” See *id.*

14. The article states that the two pilots, including a pilot named Eric Johnson, drugged, sexually assaulted and raped the flight attendants during a layover in Puerto Rico. One of the flight attendants alleged that she contracted the sexually transmitted disease, HPV, from the incident. The article indicated that the flight attendants were now filing suit for the alleged incident.

15. Both the article and the Twitter story published by Defendants were accompanied by a three-photo collage which included a photo of a man wearing a pilot’s uniform in front of a staircase on the left, an inset of a tropical resort in the bottom middle, and a man wearing a grey zippered jacket with water in the background on the right (the “Daily Mail Photo Collage.”). See Exhibits 1 and 2.

16. The man pictured in both the right and left photos of the Daily Mail Photo Collage is Plaintiff.

17. Plaintiff is a pilot for JetBlue who shares a name with a subject of the Defendants’ article; however, Plaintiff is not the perpetrator of the alleged sexual assault nor the subject of any lawsuit by JetBlue flight attendants.

18. Plaintiff Eric Johnson’s likeness was apparently found online, compiled into the Daily Mail Photo Collage, and subsequently improperly attached to the article entitled “JetBlue pilots accused of drugging and raping three airline workers” by Defendants.

19. While the Daily Mail Photo Collage was removed from *dailymail.co.uk*, the damage to the plaintiff’s character, as alleged herein, was done as numerous other news outlets had already found the Daily Mail Photo Collage and disseminated it with stories reporting the JetBlue sexual assault story. These outlets include at least: *opposingviews.com*, *YouTube.com*, *mogaznews.com*, *hiram1555.com*, and *anygator.com*.

20. The website, *LongRoom.com*, published a story about the JetBlue sexual assault and used an external link to a Daily Mail image of the Daily Mail Photo Collage: https://i.dailymail.co.uk/1s/2019/03/21/00/11253356-0-image-a-18_1553126638710.jpg. (the “External Link”). This External Link remained operational long after *dailymail.co.uk* removed the Daily Mail Photo Collage from its initial article.

21. Additional websites disseminated portions of the Daily Mail Photo Collage by using either the photo of plaintiff, Eric Johnson, in his pilot’s uniform or in the grey zippered jacket. These websites include at least *whatsnew2day.com*, *celbestnews.com*, and *lifedaily.com*.

22. On April 8, 2019, counsel for Plaintiff sent a cease and desist letter to The Daily Mail Online outlining the incorrect use Plaintiff’s likeness in conjunction with the JetBlue sexual assault story, identifying the External Link still being used by third party websites as a source of the Daily Mail Photo Collage, noting the use of the Daily Mail’s images by numerous third party sources, and requesting a correction of the original story.

23. On April 10, 2019, counsel for Daily Mail responded to the cease and desist letter via email and stated that all photos of Plaintiff had been removed from the Daily Mail website and that Daily Mail would be willing to publish a correction/apology if Plaintiff wished.

24. Despite stating that all photos had been removed, however, the External Link remained intact as of this April 10, 2019 correspondence.

25. Plaintiff responded that the External Link needed to be disabled and further, that Plaintiff requested the Daily Mail to publish a correction/apology. Despite these specific requests, the External Link remained operational until at least April 16, 2019. *See* Exhibit 2

26. On May 22, 2019, Daily Mail finally issued a note of correction after Plaintiff once again reached out asking when it would be published. At the bottom of the article, the correction stated:

(Editor's note: A previous version of this article included an incorrect photo of the Eric Johnson mentioned in this story. We apologize for the error.) *See* Exhibit 3.

27. Cease and desist letters have been sent by Plaintiff’s counsel to every known entity running the Daily Mail Photo Collage; however, as of February 25, 2020, over eleven

months after the initial publication of the Daily Mail Photo Collage, a google search of “Eric Johnson JetBlue” brings up an image of the Daily Mail Photo Collage within its first three images with the headline of “Ladies you might not wanna fly JetBlue . . . ” and an accompanying story about the alleged sexual assault. See Exhibit 4.

28. Since the publication of the Daily Mail Photo Collage, Plaintiff has endured numerous hateful and directed comments, messages, calls, and texts both on the job and personally, directly and via social media outlets and comments.

29. By such publication, Defendants caused irreparable harm to Plaintiff’s reputation and character.

30. No privilege attaches to the publication of the Daily Mail Photo Collage.

31. Defendants failed to exercise reasonable care in publishing, without verification of the likeness of the accused, the Daily Mail Photo Collage which included photographs that were taken from Plaintiff’s social media accounts without permission or verification, by failing to act with the requisite due consideration for the standards of information gathering and dissemination and in so doing acted in reckless disregard to the character and reputation of the plaintiff.

32. The Daily Mail Photo Collage and accompanying article are defamatory per se because they:

- 1) accuse Plaintiff of criminal and immoral conduct,
- 2) imply Plaintiff has and passed on a sexually transmitted disease,
- 3) call into question Plaintiff’s professionalism and will harm him in his profession both currently and in the future.

33. Plaintiff is a private, non-public, person.

34. As a direct and proximate result of the Defendants’ conduct, Plaintiff’s reputation has been and will continue to be damaged both personally and professionally. The publication of the Daily Mail Photo Collage has directly and proximately caused Plaintiff to suffer damage to his reputation, humiliation, embarrassment, mental suffering, shame and emotional distress in both his personal and professional life. These damages are ongoing in nature and will continue to be suffered in the future

35. As a direct and proximate result of the Defendants' misconduct as alleged herein, Plaintiff is entitled to compensatory damages in an amount in excess of One Hundred Thousand Dollars (\$100,000.00), plus punitive damages in the amount of \$3,000,000.00.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against the Defendants and for the following relief:

1. An award of compensatory damages, including both general and special damages according to proof at the time of trial;
2. An award of punitive damages according to proof at the time of trial;
3. An award of Plaintiff's costs associated with this action, including but not limited to attorney's fees and such other relief as the Court deems just and necessary.

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PLAINTIFF DEMANDS TRIAL BY JURY